FILE COPY

IN THE

Supreme Court of the United States

October Term, 1972.

No. 72-564.

THE BOARD OF EDUCATION OF CENTRAL DISTRICT NO. 1 OF THE TOWNS OF ADDISON, CAMERON, RATHBONE, TUSCARORA, WOODHULL, THURSTON, ERWIN, LINDLEY and CANISTEO, STEUBEN COUNTY, NEW YORK; EDWARD J. BROWN, District Principal, Central School District No. 1; CARL PILLARD, Principal, Addison High School, and ROBERT ANDREWS, President of the Board of Trustees of Central District No. 1,

Petitioners,

against

CHARLES JAMES,

Respondent.

Motion for Leave to File Out of Time Petition for Rehearing.

HARRY TREININ,
Attorney for Petitioners,
11 East Market Street,
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607 962-3167.

In The

District Court of the United States

October Term, 1972.

No. 72-564.

The Board of Education of Central District No. 1 of the Towns of Addison, Cameron, Rathbone, Tuscarora, Woodhull, Thurston, Erwin, Lindley and Canisteo, Steuben County, New York; Edward J. Brown, District Principal, Central School District No. 1; Carl Pillard, Principal, Addison High School, and Robert Andrews, President of the Board of Trustees of Central District No. 1.

Petitioners.

against

Charles James.

Respondent.

Motion for Leave to File Out of Time Petition for Rehearing.

Petitioner respectfully moves for leave to file the petition for rehearing on the order of this court denying the petition for writ of certiorari in this case entered on December 4, 1972. The mandate of the court was received by the undersigned counsel for petitioner on December 8, 1972.

That within the next few days, undersigned received a call from Dr. John P. Jehu, Associate Counsel for the New York State Education Department, suggesting that the Department considered it advisable to consider the filing of a petition for rehearing in this case. A meeting was arranged to be held in Albany on December 15, 1972.

At that meeting, Dr. Jehu explained to the undersigned that the Education Department felt very strongly that the integrity of the judicial system established by New York State to resolve questions arising in the administration of the New York Public School System was jeopardized by the decision of the court below, that it gave sanction to the bypassing of decisions of the Commissioner of Education by those who petitioned him for relief and were disappointed in his determination. Dr. Jehu agreed to furnish undersigned with a résumé of his arguments.

Dr. Jehu's communication, dated December 26, 1972, arrived in the office of undersigned on December 28, 1972. Undersigned had an out-of-town appointment on December 29, 1972, and the first opportunity he had to read the submitted citations in the County Library was on January 2, 1973. He prepared the petition and forwarded it to the printer on January 3, 1973. On January 8, 1973, undersigned received a call from the Clerk of the Court calling attention to the fact that the petition was not timely filed.

Although the petition for rehearing was filed a few days late, it is respectfully requested that in the interests of justice, the court entertain the petition and the supporting statement of the *amicus curiae*.

Respectfully submitted,

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